

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRANDON CLARK,

Plaintiff,

v.

Case No. 2:25-cv-269
Judge James L. Graham
Magistrate Judge Elizabeth P. Deavers

**COLUMBUS STATE
COMMUNITY COLLEGE,**

Defendant.

OPINION & ORDER

This matter is before the Court to consider the Report & Recommendation (ECF No. 4) issued by Magistrate Judge Deavers. Plaintiff Brandon Clark, proceeding without the assistance of counsel, brings this action against Defendant Columbus State Community College alleging that Defendant violated his First and Fourteenth Amendment rights. (ECF No. 3). Specifically, Plaintiff asserts that he was denied re-entry to the “Imaging program” as retaliation for exercising his first amendment rights and that such action by Defendant deprived Plaintiff of his procedural and substantive due process rights under the Fourteenth Amendment. (*Id.*). Plaintiff requests leave to proceed *in forma pauperis*. (ECF No. 1).

The Magistrate Judge granted Plaintiff’s motion to proceed *in forma pauperis*. However, the Magistrate Judge also found that Defendant Columbus State Community College is immune from liability under 42 U.S.C. § 1983, that statute under which Plaintiff brought this suit. *See Crawford v. Columbus State Community Coll.*, 196 F. Supp. 3d 766, 773 (S.D. Ohio 2016) (“Ohio’s state colleges and universities form ‘an arm of the state entitled to federal immunity in federal court’ under § 1983 as opposed to ‘political subdivisions of the state’”) (citing *Hall v. Med. Coll. of Ohio at Toledo*, 742 F.2d 299, 307, 310 (6th Cir. 1984); *Stevenson v. Owens State Cmty. Coll.*, 562 F. Supp. 2d 965, 968–70 (N.D. Ohio 2008) (holding that community colleges are immune from suit under § 1983).

The Eleventh Amendment bars suits against state entities in federal court, *see, e.g.*

Seminole Tribe of Florida v. Florida, 517 U.S. 44, 116 S.Ct. 1114, 134 L.Ed.2d 252 (1996). Accordingly, this Court has held that public-funded universities are not considered “persons” under § 1983 and are immune from actions under this section. *See Hall v. Medical College of Ohio at Toledo*, 742 F.2d 299, 304 (6th Cir.1984). In order to overcome this Eleventh Amendment bar, a plaintiff must either seek injunctive relief against a state official in his official capacity or seek monetary relief against a state official acting in his individual capacity. *See Ex Parte Young*, 209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714 (1908); *Wells v. Brown*, 891 F.2d 591, 592 (6th Cir.1989). When seeking monetary relief against a state official, a plaintiff must clearly state that he is suing the official in his individual capacity. *Underfer v. Univ. of Toledo*, 36 F. App'x 831, 834 (6th Cir. 2002). Accordingly, the Magistrate Judge recommended that Plaintiff's claims be dismissed in their entirety. (ECF No. 4).

A. Standard of Review

If a party objects within the allotted time to a Report and Recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

B. Plaintiff's Objections to Report and Recommendation

Plaintiff timely filed an objection to the Report and Recommendation. In the objection, Plaintiff largely repeats the arguments made in his initial filing. Plaintiff alleges that “he was not given a fair opportunity to succeed” in the 1113 Imaging Course but fails to address or refute the Magistrate Judge's findings that Defendant Columbus State Community College is immune from suit under § 1983. Furthermore, Plaintiff fails to properly seek relief against a state official either in their official or individual capacity. Therefore, the Court agrees with the Magistrate Judge that Plaintiff has failed to state a plausible claim for relief against Defendant Columbus State Community College.

C. Conclusion

The Court agrees with the Magistrate Judge's Report and Recommendation (ECF No. 4) and **ADOPTS** the same. Plaintiff's objection (ECF No. 5) is **OVERRULED**. Plaintiff's claims are hereby **DISMISSED**.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: May 30, 2025